

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,
Plaintiff,
v.
ADRIAN FUENTES GARCIA,
Defendants.

2:09-CR-262 JCM (RJJ)

ORDER

Presently before the court is defendant Adrian Fuentes Garcia's motion to equitably toll the statute of limitations related to Mr. Fuentes' 28 U.S.C. § 2255 motion to vacate. Doc. #270. The court previously granted the government's motion to dismiss the § 2255 motion. Doc. #265.

The court interprets Mr. Fuentes' motion as a motion to reconsider the previous dismissal order. Mr. Fuentes makes arguments speaking directly to the government's reply brief and the analysis contained in the court's order. Motions for reconsideration "should not be granted, absent highly unusual circumstances." *Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000). These circumstances are present where "the district court is presented with newly discovered evidence, committed clear error, or if there is an intervening change in the controlling law." *Id.* Defendant's motion fails to persuade the court that any of these three circumstances are present.

This court previously dismissed the motion because the materials defendant claimed he needed to properly support his habeas petition were irrelevant to the ineffective assistance of counsel claims the motion raised. The motion to reconsider does not illustrate a link between the needed

1 documents and the arguments made in the habeas petition. Therefore, the court denies the motion
2 to reconsider.

3 Accordingly,

4 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the defendant's motion
5 to equitably toll the statute of limitations (doc. #270) be, and the same hereby is, DENIED.

6 DATED June 6, 2012.

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8 *James C. Mahan*
9 **UNITED STATES DISTRICT JUDGE**
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